



**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**
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Washington, DC 20549

DIVISION OF ENFORCEMENT

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July 16, 2020

VIA ECF

Honorable Leda Dunn Wettre
Martin Luther King Building & U.S. Courthouse
50 Walnut Street
Newark, NJ 07102

Re: U.S. Securities and Exchange Commission v. Ieremenko, et al.
Case No. 19-cv-00505 (MCA)(LDW)

Dear Judge Wettre,

Pursuant to the Court's Amended Scheduling Order dated April 29, 2020 (ECF No. 91), plaintiff U.S. Securities and Exchange Commission ("SEC") and defendants Sungjin Cho ("S. Cho"), Ivan Olefir, and Capiyield Systems, Ltd. ("Capiyield"), and relief defendant Kyungja Cho respectfully submit this joint status letter in advance of the telephonic status conference scheduled for July 21, 2020, at 4:30 p.m. As set forth below, the parties are actively engaged in fact discovery and jointly request an extension of the fact discovery deadline from August 31, 2020 to November 13, 2020.

1. Status of Fact Discovery

The parties continue to be actively engaged in fact discovery and have endeavored to resolve discovery issues cooperatively. All parties have produced additional documents in recent weeks. Defendant S. Cho has indicated that he will be producing on a rolling basis responsive documents from devices that were seized by criminal authorities in approximately January 2019 and recently returned to him. The parties are also discussing whether the defendants will elect to review (and if they so elect, potential avenues for the defendants to review) a large volume of forensic and other evidence related to the hacking of the SEC's EDGAR system.

On June 9 and 10, 2020, the SEC deposed defendant Olefir via videoconference, both in his individual capacity and as the Rule 30(b)(6) representative for defendant Capiyield. Following his deposition, defendant Olefir produced to the SEC a computer program that he testified was among the tools that he employed to generate information used to make trading decisions. Counsel for Mr. Olefir has also indicated that he will be producing additional documents in the coming weeks, including additional records relating to the computer program. The SEC believes that this program was responsive to the SEC's September 30, 2019 discovery

requests and should have been produced well before Mr. Olefir's deposition. The SEC has requested further information from Mr. Olefir regarding this program and other topics raised in his deposition, through both formal and informal requests, and may seek to take further deposition testimony from Mr. Olefir.

The parties also anticipate taking a number of additional fact depositions. The SEC has noticed the deposition of third-party Steven Yang, an associate of defendant S. Cho, and also plans to continue the deposition of defendant S. Cho, as noted in the parties' previous submissions to the Court. Defendant S. Cho has noticed the deposition of settled defendant David Kwon.

2. Joint Request for Extension of Discovery Cut-Off

The parties have worked cooperatively to push fact discovery forward, but current travel and other restrictions relating to COVID-19 have hampered the parties' progress. Due to the volume and sensitivity of the forensic evidence that the SEC has made and will make available to the defendants for review, current restrictions have also further complicated matters. As noted above, the SEC and defendant Olefir are discussing a potential further deposition of defendant Olefir based upon recently produced documents. Counsel for defendant S. Cho was recently retained by third-party Yang to represent Mr. Yang at his deposition, which has occasioned the postponement of the deposition. Both defendant S. Cho and defendant Olefir currently reside overseas, adding further logistical complication. In short, while the parties have worked cooperatively to resolve discovery issues, the parties require additional time to resolve some of these issues, particularly in light of the challenges presented by the pandemic.

For these reasons, the parties respectfully request that the Court further amend the scheduling order to extend the end of fact discovery until November 13, 2020.

We look forward to speaking with Your Honor on July 21.

Respectfully submitted,

/s/ Olivia S. Choe

Olivia S. Choe

Counsel for Plaintiff

/s/ Sean Prosser

Sean Prosser

*Counsel for Defendant S. Cho and
Relief Defendant K. Cho*

/s Marc Litt

Marc Litt

*Counsel for Defendants Olefir and
Capyield*

cc: Counsel of record (via ECF)